

**ANNUAL HEARING**

Before The Joint Judiciary Committee  
Of The Colorado General Assembly



**APPEARING ON BEHALF OF THE AGENCY:**

**MEGAN A. RING**  
*Colorado State Public Defender*

**LUCIENNE OHANIAN**  
*Chief Deputy*

**JAMES KARBACH**  
*Director of Legislative Policy and External Communication*

**Wednesday, January 21, 2026**

## **Agency Overview**

### **Mission**

The Office of the State Public Defender's (OSPD) mission is to protect and defend the rights, liberties, and dignity of those accused of crimes who cannot afford to retain counsel. We do so by providing constitutionally and statutorily mandated representation that is effective, zealous, inspired and compassionate.

#### ***OSPD Enabling Legislation:***

*The general assembly hereby declares that the state public defender at all times shall serve his clients independently of any political considerations or private interest, provide legal services to indigent persons accused of crime that are commensurate with those available to nonindigents, and conduct the office in accordance with the Colorado Rules of Professional Conduct and with the American Bar Association standards relating to the administration of criminal justice, the defense function. C.R.S. 21-1-101(1).*

### **Vision**

It is OSPD's vision that every client served receives excellent legal representation through the delivery of high-quality legal services and compassionate support from a team of dedicated Public Defenders.

## **Current Budget**

The OSPD functions as a single program devoted to providing criminal defense representation to indigent people charged with crimes where incarceration is a possibility unless there is a conflict of interest. Courts appoint the OSPD when a person qualifies for public defender services under statute, applicable case law and Chief Justice Directives.

Because our mission is to provide legal representation in criminal cases to people who are indigent, we are a service-oriented agency. Eighty-five percent of our budget is spent on personal services, with the remaining fifteen percent supporting mandated and operational costs. Any changes to our personal services budget, such as those made through legislative action on common policies and new legislation, have a tremendous effect on our overall appropriation and our ability to meet our constitutional and legislative mandate.

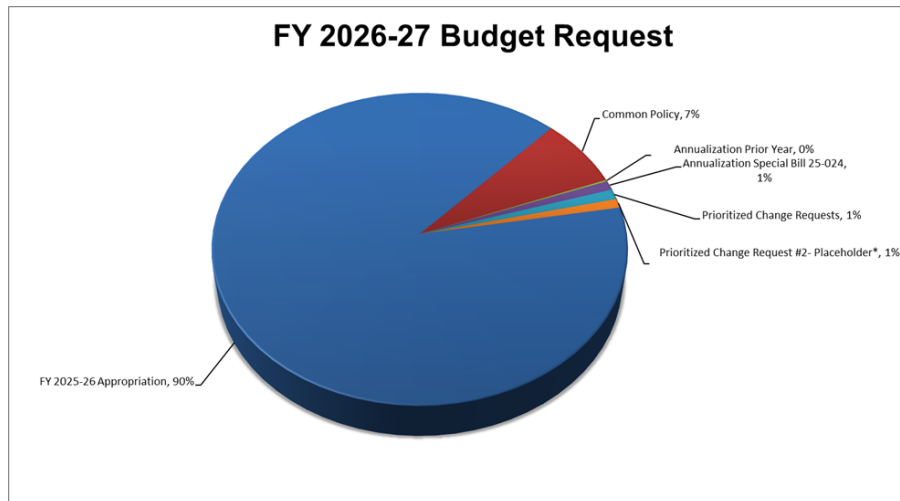
The OSPD is a highly efficient and effective steward of state monies. OSPD averages 175,000 active cases per year and in FY 2024-25 the cost per case was \$969. For fiscal year 2025-26, the OSPD was appropriated \$192,835,367 and approximately 1205 FTE. In addition, with the passage of S.B. 25-024 OSPD was appropriated \$621,337 and approximately 7 FTE. OSPD's FTE is comprised of approximately 631 attorneys, 185 investigators, 123 paralegals, 34 social workers, 167 administrative assistants, and 72 centralized management and support positions. These positions are distributed to cover cases across twenty-one trial offices, in twenty-three judicial districts, and sixty-four counties in the state, as well as an appellate office and centralized administrative office.

The focus of the OSPD FY 2025-26 budget submission was focused on continued expanding workload including the impact from former Aurora Municipal Court domestic violence cases, misconduct within Colorado Bureau of Investigation (CBI) laboratory, and the State Auditor's recommendation that OSPD improve its process for assessing personal resource needs by conducting a new workload study. OSPD's other focus was on the continued increase in information technology (IT) data storage. OSPD received funding for the CBI misconduct cases and IT data storage.

## **FY 2026-27 Budget Request**

The total FY 2026-27 budget request for the Office of the State Public Defender (OSPD) is \$214,944,367 and 1,254.5 FTE. OSPD is asking for three prioritized Change Requests and four non-prioritized Change Requests in our FY 2026-27 Budget Request.

- **FY 2025-26 Appropriation of \$ 192,835,367**
  - PLUS Special Bill 25-024 of \$ 621,337
  - PLUS Annualizations of \$ 1,715,404
  - PLUS Common Policy of \$ 15,486,815
- **FY 2026-27 Base Request of \$ 210,658,923**
  - PLUS Change Request #1 for \$ 1,180,294
  - PLUS Change Request #2 for \$ 2,000,000\*
  - PLUS Change Request #3 for \$ 955,317
  - PLUS Non-prioritized Change Request #3 for \$ 101,525
  - PLUS Non-prioritized Change Request #4 for \$ 48,308
- **FY 2026-27 Budget Request of \$ 214,994,367**



\*joint request by OADC & OSPD

## **FY 2026-27 Budget Priorities**

As demonstrated by OSPD's low per-case cost, the OSPD continues to focus on priorities that ensure efficient use of its limited resources to complete its mission. Several events and factors beyond the agency's control have necessitated decision items this year. OSPD's FY 2026-27 budget request understands the very challenging fiscal environment the state faces by focusing only on critically needed funding.

### ***Impact of Aurora Domestic Violence Cases***

OSPD is experiencing an influx of domestic violence cases requiring an increase in FTE to handle the additional workload. Due to Aurora's City Council's decision to end domestic violence prosecutions in its municipal court, effective July 1, 2025, the 1200+ cases that were previously prosecuted in the city court are now filed in state courts, primarily in Arapahoe and Adams counties. Domestic violence cases require significant attention and time for defense counsel because of the complex interpersonal, familial, and evidentiary issues that are present in these accusations. OSPD estimates based upon Arapahoe

County court services data, a municipal court workload study conducted by the National Center for State Courts, and OSPD's workload data related to these kinds of cases that OSPD will need 7 attorney FTE with supporting administrative, paralegal, and investigator staff to defend approximately 900 additional DV cases per year. This request is in line with what other agencies have requested and received. Between the two judicial districts, the prosecutors have been allocated 11 additional prosecutors and 11 additional staff members, all to handle these additional cases. Likewise, last year's long bill funded the Judicial Department with more than 10 additional probation officers for this workload.

### ***Representation of Clients Impacted by Forensic Misconduct***

OSPD and the Office of Alternate Defense Counsel (OADC) are jointly requesting \$2,000,000 General Fund spending authority for FY 2026-27 to continue work on cases affected by decades-long misconduct by Colorado Bureau of Investigation DNA analyst Yvonne "Missy" Woods, as well other forensic misconduct that has come to light since the agencies submitted their initial joint budget request on November 1, 2025. OSPD also submitted a supplemental budget request of \$243,328 of General Fund spending authority for FY 2025-26 to respond to the workload increase incurred by the agency as it initiates Colorado's response to the state's ongoing forensic science crisis. The supplemental request covers additional costs after the agencies were jointly awarded \$300,000 last year that was split between the agencies and of which OSPD has exhausted its half.

The agencies explained in their joint decision item "this CBI scandal is now in its third year of public scrutiny with no end in sight." Unfortunately, recent revelations of more forensic analyst misconduct in Colorado will only expand the scope and impact of this scandal. While the agencies have gained a better understanding of how many cases might be impacted by Woods' misconduct, the new assertions of misconduct have created potential relief for hundreds more defendants than previously known. This will certainly compound the impact of forensic misconduct on Colorado's criminal legal system.

OSPD has been diligently working to determine how claims related to the Forensic Science Integrity Act ("FSIA") will truly increase workload, but more work and a larger data set is necessary to fully predict this scandal's fiscal impact. It is clear, however, that the agencies will need increased funding for at least the next 18 months.

### ***An Updated Breakdown of Cases Impacted by Woods<sup>1</sup>***

OSPD's continued effort to investigate the scandal and demand greater transparency has resulted in updated estimates of expected cases. The estimates are drawn from an independently compiled list of impacted cases, which includes: 1) cases with CBI-identified anomalies; 2) cases identified in a CCJRA request for cases in which Woods testified; 3) cases identified by OSPD; and (4) cases identified by OADC. OSPD extracted data from that list, and an analysis of that data follows:

#### **Known Woods Cases by the Numbers**

**Total cases: 1536**

**Cases resulting in convictions: 749**

- *Convictions by trial: 254*
- *Convictions by plea: 495*
- *Convictions with OSPD as counsel: 451*
- *Convictions with ADC as counsel: 136*
- *Convictions with Private Counsel: 155*
- *Convictions with Pro Se counsel: 7*

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<sup>1</sup> The statistics in this section of the SMART Act were compiled and provided in OSPD's November budget request. OSPD is continuing to collect data regarding the FSIA, and other updated FSIA statistics are included below in the "Impacts of Recent Legislation" section.

**Life Without Parole (LWOP) convictions: 53**

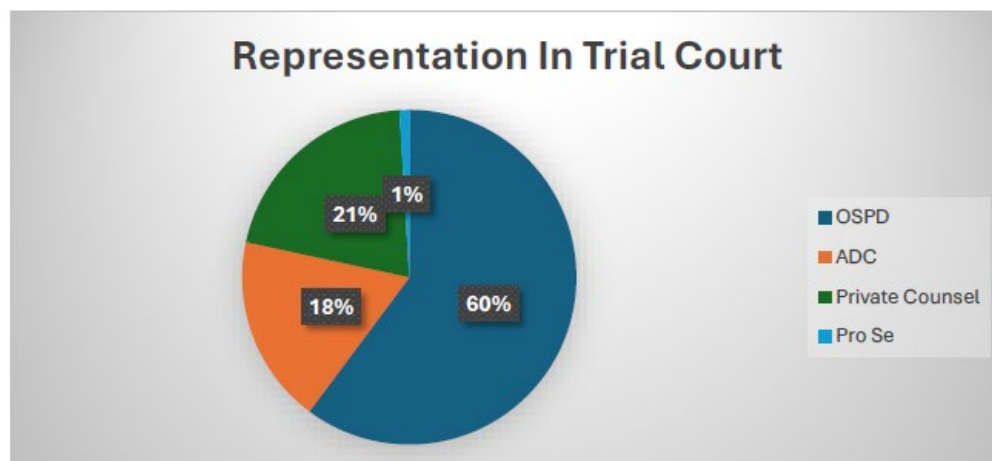
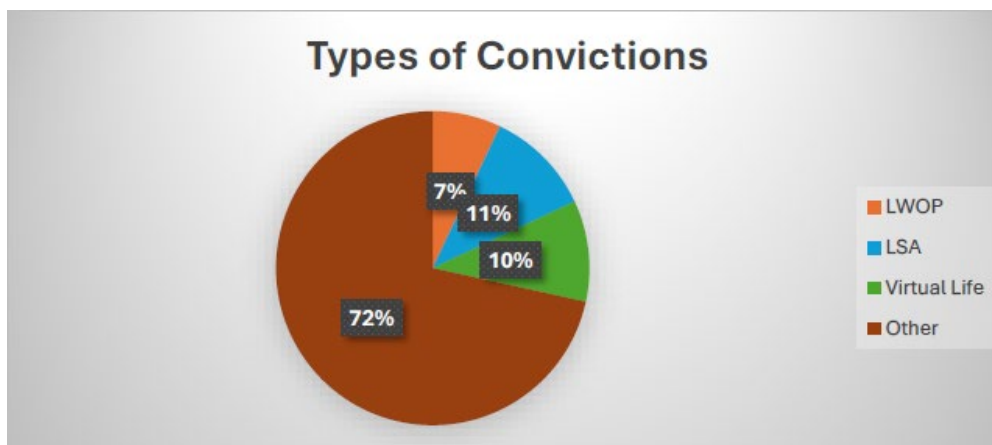
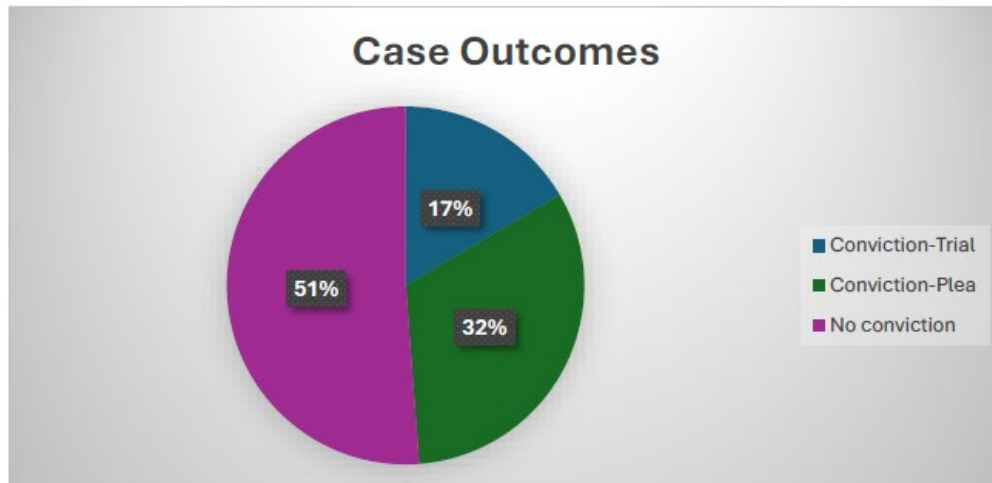
**Lifetime Supervision Act (LSA) convictions: 82**

**Virtual lifetime convictions (LSA or term of years greater than life span): 78**

**People in custody: 211**

**People currently represented by counsel on FSIA or other matters: 36**

**Known Woods Cases at a Glance**



### *Estimated Workload Increase*

In the joint budget request last year, OSPD and OADC explained that each case where counsel is appointed to investigate FSIA issues will cost on average \$15,000 based on the cost-per-case for similarly situated OADC cases. Consequently, the current estimated fiscal impact to the agencies for all cases resulting in convictions is \$11,250,000. The estimate would decrease if some affected defendants do not seek relief, but it is reasonable to expect that – at a minimum – almost all the approximately 200 incarcerated defendants will ask for counsel. Therefore, the agencies would expect to need roughly \$3,000,000 to do the substantive representation for just the incarcerated defendants on the current list, without adding new cases from the Woods scandal, much less additional cases related to other misconduct.

Because the process of assignment of counsel is just beginning, very few FSIA cases have progressed to significant litigation making it difficult to predict how cases will proceed, and at what cost to the agencies. Not all FSIA-eligible cases will result in appointment of counsel and not all cases that result in appointment of counsel will need significant work on behalf of a client. Because most defendants have three years to file an FSIA claim, not all cases will immediately have a fiscal impact. And for cases where counsel is appointed and relief from conviction is sought, the work will likely be spread over more than one fiscal year, due to the complex nature of most of the impacted cases.

Consequently, while OSPD anticipates future funding requests related to this scandal, for now an incremental approach based on current data is more fiscally responsible.

### ***IT True-Up***

Over the last several years, the OSPD, with support from the Joint Budget Committee, has made investments in various software tools and solutions for staff to be able to do their job, including research, transcription, discovery review, security, case management, communication, and IT tools. These tools in large part create efficiency for the agency, saving time and money. However, these tools were funded as point in time costs. Since these items were originally funded, licensing costs have gone up significantly. While OSPD's approach has been to manage these cost increases within its existing budget, the costs continue to rise, and additional funds are needed to continue providing these necessary resources.

## **Impacts of Recent Legislation**

### ***The Forensic Science Integrity Act ("FSIA") HB25-1275***

In late 2023, OSPD learned of a crime laboratory scandal in the Colorado Bureau of Investigation through public news reporting. Later, in June of 2024, CBI publicly released an internal affairs report detailing an internal investigation related to the misconduct of crime laboratory employee Yvonne Woods that spanned over a decade.

In response, the General Assembly passed HB25-1275, also known as the Forensic Science Integrity Act ("FSIA"). The law contained many different provisions to address the problems of this scandal while also looking to improve forensic science in Colorado.

### **FSIA Notices Received**

The FSIA requires a crime laboratory director who receives a report of wrongful action by a crime laboratory employee to investigate the claim and notify district attorneys. DAs are then required to notify people whose conviction included work by that crime laboratory employee. OSPD then receives notice if

it represented the defendant, or if the defendant has remained in custody because of that conviction – regardless of whether OSPD represented the defendant.

Defendants who are out-of-custody can also seek OSPD assistance in reviewing their case and making a post-conviction claim if they are indigent. The notices alert defendants that they have a right to counsel to investigate any claims under the FSIA, that they have a right to court-appointed counsel if they are in custody or are indigent and out of custody, and provide contact information for OSPD. The FSIA also requires crime laboratories to engage in an 11-year look-back and give notice of prior misconduct.

As of January 15, 2026, OSPD has received FSIA notices in 2557 cases.

In addition to Woods notices, OSPD has received notices related to wrongful action of three other analysts in Colorado, revealing potential eligibility for counsel for hundreds more defendants than previously known. Those notices have continued to roll in and data tracked by OSPD related to the notices evolves daily.

As of January 1, 2025, OSPD is currently aware of 1,780 cases where DA notices were issued to defendants who are eligible for counsel under the FSIA because Woods worked on their case. There are also 813 such eligible cases related to wrongful action by two other CBI agents and 115 related to wrongful action of an agent at the Northern Colorado Regional Forensic Crime Lab (NCRFCL).

Notably, despite statutory deadlines for FSIA notices that have already passed, four DAs offices have not provided notices to OSPD. The 8<sup>th</sup> and 20<sup>th</sup> judicial districts have communicated to OSPD that they are working on it and need more time to complete the work. Two districts, the 11<sup>th</sup> and the 16<sup>th</sup>, have yet to respond to inquiries (although it is possible that there are no cases in the 16<sup>th</sup>). It remains possible that crime laboratories will identify additional employees who have committed wrongful misconduct as the labs engage in the statutorily-required look back for the past 11 years. As a result, OSPD expects to receive more FSIA notices in the coming months.

In addition, through other sources, including clients contacting OSPD or filing a request with a court, employees remembering cases involving Ms. Woods, OSPD has identified **another 475 cases in which Ms. Woods worked that resulted in conviction for which OSPD has not a received an FSIA notice.** Although, some of these cases will be people who are out-of-custody for whom the statute does not require notice to OSPD.

Of that 475, OSPD believes that at least 279 of those cases of were identified as having a CBI-identified “anomaly” (synonymous for CBI finding wrongful action by Ms. Woods).

Of those 279 cases, OSPD identified 29 of those clients who are in custody and were convicted in a case in which an anomaly was identified, and the conviction occurred in a district which has already provided notices. This indicates that while the notice process is working, there may be a relatively small number notices that should be coming to OSPD in cases where there is a need for an in-custody client’s case to be reviewed by a lawyer.

#### *Crime Laboratory Employees Other Than Ms. Woods*

As noted above, OSPD has thus far received FSIA notices related to the retroactive look backs into wrongful action involving three other crime laboratory employees (two in CBI and one in another lab). These cases appear to involve separate misconduct from Ms. Woods’ misconduct, although the exact nature of all the misconduct by these analysts is still not fully known to OSPD attorneys.

In short, the crisis is continuing to grow.

#### *Intake Process*

By law, FSIA notices must notify the defendant that the matter is time-sensitive, and that they may

request a lawyer to review their case. Contact information for the court and OSPD regional office in the corresponding jurisdiction must also be included in the written notice. Interested defendants may seek representation through a *pro se* application for counsel to the court, who then refers the matter to OSPD, or they can request counsel from OSPD directly.

So far, OSPD knows of approximately 300 people who have requested that court-appointed counsel review their case. Of those, OSPD is awaiting about 80 indigency applications and about 220 have been determined to be eligible for counsel. About 175 of the 300 requests have come from in-custody applicants (who are automatically eligible for court-appointed counsel in Colorado).

Once a defendant is determined to be eligible for court-appointed counsel, OSPD must conduct the labor-intensive work of communicating with the defendant, researching the case's procedural history, and determining whether OSPD has a conflict of interest. Any case that would create a conflict of interest is referred to the Office of Alternate Defense Counsel. OSPD has relied upon one paralegal and a rotating group of recent law school graduates who are helping with the large administrative burden caused by the intake of hundreds of FSIA cases while also researching and analyzing case-specific data, drafting pleadings, and communicating with FSIA clients and their families. OSPD's supplemental budget request is to continue to fund their work.

OSPD expects to be able to represent – at most – 1 in 4 defendants because of the large number of conflicts of interest. These conflicts occur more frequently in the FSIA context because OSPD represented many of the clients at the time of their trial or guilty plea and/or appeal, or OSPD represented the co-defendant. Additional ethical considerations in post-conviction cases can require withdrawal.

As a result, OSPD expects at least 75-80 percent of the court-appointed cases to be handled by ADC attorneys.

#### Total Incoming Workload

The complicated intake and data collection process will continue to require significant work for OSPD in the coming year. Nineteen district attorney offices sent notices to OSPD, at least two still need more time, after having six months to prepare these materials. OSPD has taken the information received starting in October and created a case-review process that includes communicating with clients seeking counsel, gathering procedural history, making complex ethical determinations and creating the State's only database that includes a cross-section of cases impacted by the FSIA. OSPD will need to maintain that process while also accepting new requests for counsel.

This initial work has little to do with the substantive post-conviction effort by defenders on behalf of FSIA clients, which is just getting going in a handful of cases. These cases will require many hours of review by experienced defenders, complex advice to clients, and engagement with forensic science experts. This work will be necessary before pleadings can even be drafted and hearings conducted.

Because some district attorneys are still working on sending notices, and other may have missed some notices, it is unknown how many notices OSPD will ultimately receive and how many will result in the request and appointment of counsel. Based on the current intake in the short period of time since October, with 300 requests for counsel, 220 qualifying applications, and another 80 waiting for application, OSPD expects hundreds of cases that will have to be staffed by OSPD and OADC.

#### Difficulty in Obtaining Information

While the FSIA required individual case notices, the final text of the bill did not require crime laboratories to provide a list of all cases worked on by an impacted crime laboratory employee to OSPD. It also did not require the FSIA notice to specify whether the lab believed wrongful action actually occurred in the particular case. The required notice only alerts the defendant that a crime analyst who worked on their



case committed wrongful misconduct and that the defendant could seek legal counsel to review their case.

Further, although the FSIA enacted discovery rules for impacted defendants, only a small fraction of FSIA cases have reached a point where discovery has been requested or ordered. In those cases, and others involving Ms. Woods that are pre-trial, the attorney general's office, in coordination with some local prosecutors, has aggressively sought to limit access to information about Ms. Woods' conduct. Often, these parties have claimed that withholding information is necessary to protect the prosecution of Ms. Woods.

Recently, OADC and OSPD have learned that in seeking to deny the procedural rights provided to defendants under the FSIA, the Attorney General is asserting that Ms. Woods did not "work on a case" under the FSIA where she was the "technical reviewer." Technical reviews are an important part of the scientific testing and quality control process and involve one or more employees of the laboratory reviewing the data and analysis decisions of another employee. Importantly, the technical review involves *accessing* data and Ms. Woods was caught *deleting* data. Further, quality technical reviews by CBI should have caught at least portions of the longstanding misconduct in its laboratory. Consequently, this position is both factually and legally problematic and will continue to hamper efforts at fully understanding the harm done by Ms. Woods, CBI, and will likely require extensive litigation and ultimately review by appellate courts.

### **Outlook Going Forward**

OSPD recognizes the tremendous budget difficulties of the state. Nonetheless, OSPD is hoping to work with the Joint Budget Committee and the entire legislature to ensure that misconduct is properly investigated by defense lawyers for people convicted in these cases.

OSPD had no control over the timing or scope of these issues but has steadfastly worked to address them. The agency has led the State's investigative and litigation efforts to uncover the full panoply of misconduct to restore confidence in the state's criminal legal system while seeking justice on behalf of those harmed. But OSPD employees need resources and support to continue to do that.

Additionally, OSPD is committed to working with the other parties involved in the criminal legal system to ensure that the FSIA is working as intended and whether any legislative clean-up or adjustments are needed in this area.

### ***Aurora City Council Discontinuing DV prosecution***

On September 9, 2024, Aurora City Council passed resolution 2024-119 which ended domestic violence prosecutions in Aurora Municipal Court effective July 1, 2025. Previously, Aurora Municipal Court handled over 1200 domestic violence cases each year. As a result of the resolution, now all these cases are filed into the state courts, specifically, the 17<sup>th</sup> and 18<sup>th</sup> Judicial Districts in Adams and Arapahoe counties, respectively. OSPD is responsible for providing defense to those who qualify for a public defender in state courts and is on track based on filing trends to absorb more than 900 additional domestic violence cases this fiscal year alone because of the resolution. Domestic violence cases require significant attention and time because of the complex interpersonal, familial, and evidentiary issues that are present in these accusations.

The district attorney's offices in each district have received additional FTE to handle this increased workload, as has the probation department as a part of last year's long bill. OSPD's 2025 request for additional staff for this workload was not funded. Understanding there is a budget deficit OSPD must return to this request as OSPD is experiencing a significant impact and is constitutionally mandated to take these cases.

## ***Increases in detainer notifications by the Department of Corrections pursuant to HB25-1116***

HB25-1116 requires DOC to search all information available to the department to determine whether an inmate held at a correctional facility is subject to an outstanding warrant or if the inmate has a pending case in a Colorado court. The department is required to conduct the search when completing the initial evaluation of the inmate's sentence and 3 to 8 months prior to the inmate's community correction eligibility date. The bill requires the department to establish guidelines and policies to address other requests for these searches as needed by the public defender liaison to the department. The goal is to resolve detainers and court cases in a timely manner and not to wait until a person would otherwise be released.

OSPD's DOC liaison attorney works with clients to resolve these detainers. In FY 24-25 OSPD opened and worked on 536 cases of detainers. In the first six months, because of HB25-1116, OSPD opened and worked on 557 cases of detainers, an anticipated doubling of the amount.

Overall, this legislation appears to be working to more quickly resolve detainers, reducing the costs associated with continued incarceration, and unnecessary transportation between DOC and courthouses, and allowing timely resolution of cases which benefits inmates, courts, victims, law enforcement, and prosecutors.

## **Legislative Priorities**

OSPD supports legislation that will improve fairness and just outcomes for its clients involved with the criminal legal system. Our agency always engages, upon request, with legislators seeking support and information for bills that will protect the constitutional rights of people, support the disenfranchised and provide better and real opportunities for people who suffer from the failure of systems to adequately address poverty, mental illness, addiction, and institutional racism. Measures that cause fewer people to be brought into the criminal legal system are priorities for OSPD and are smart fiscal policy.

### ***E-Discovery***

SB25-240 created an eDiscovery Task Force co-chaired by a CDAC representative and OSPD representative. On December 15, 2025, the task force issued its final report, provided to the joint budget committee and joint technology committee. The report details the history of the eDiscovery systems in Colorado, the ePortal (used by law enforcement to send information to prosecutors), and eDiscovery website (used by prosecutors to send discovery to defense lawyers). It also details that with increased digital evidence (like body camera footage, surveillance, and copies of cell phone and computer data) the existing ePortal and eDiscovery website cannot be relied upon to transmit information. Instead, law enforcement is contracting with third party vendors, like AXON, to transmit this information. The downstream user, including prosecutors and defense lawyers, then must contract with the vendors who warehouse this information to access and efficiently collect, review, and make use of discovery.

There is a looming problem for OSPD. OSPD is currently spending approximately \$120,000 a year on licenses for one of the vendors, AXON, to enable receipt of discovery. When that contract expires, absent a more comprehensive solution, OSPD expects costs to increase 10-fold for just this one vendor. Absent funding for these costs or an alternative solution, OSPD will be unable to receive discovery, despite constitutional, statutory, and rule-based mandates. Without access to the evidence of the alleged crime, cases will not be able to move forward, and all involved in the criminal legal process will be affected. While AXON is used by many police agencies in Colorado creating significant downstream reliance for prosecutor and defense counsel, it is not the only aspect of a looming eDiscovery crisis.

## ***Extreme Indifference Homicide Reform***

Colorado's version and application of extreme indifference homicide laws continue to be out of line with other states' extreme indifference or depraved heart murder. There are a growing number of conflicting and nearly impossible to reconcile appellate court decisions making these laws confusing for lawyers, defendants, judges, and jurors. Colorado is among an extreme minority that imposes life without parole and is the only state that recognizes attempted extreme indifference murder as a cognizable crime. OSPD attorneys report these laws driving inconsistent and unjust results in Colorado.

OSPD is committed to working with other stakeholders to reform these laws to make them better-situated in application and penalty in Colorado laws.

## ***Access to Department of Human Services Records with a Release from a Client***

Frequently OSPD represents clients who were or are abused or neglected children and were the subject of DHS intervention and investigation. Obtaining records of DHS involvement can be fundamental to understanding the life circumstances that contributed to the criminal conduct and the information within the records is often presented as mitigation to district attorneys and judges. They are often evidence in transfer and reverse transfer hearings where youth are prosecuted as adults. At times, the records are factually relevant to the allegations in the case itself.

The release of DHS records is governed section 19-1-307, C.R.S. Some county DHS offices have interpreted the law to only allow release to clients, not their lawyers presenting a valid release of information despite medical records, school records, and other private records routinely being provided directly to the lawyer. The effect of this interpretation of the DHS records statute creates expense, hardship, and chain of custody issues for all involved. For instance, when a client is in prison or jail, DHS will only mail records to the prison which must go through the prison mail system and can be rejected because of prison administrative regulations. Where received by the client, OSPD staff must travel to the prisons or jails, sometimes hours away, just to pick up the records. These records contain highly sensitive material and providing them to people who are incarcerated risks the information being accessed by others without authorization.

This process not only negatively affects OSPD, but also lawyers from ORPC, ADC, OCR and others. OSPD is working with these groups to bring a legislative fix to DHS records law.

## ***Civil Mental Health System Reform***

There is a long-standing crisis in the competency process in Colorado, a related long-standing crisis in the system of civil involuntary care system in Colorado, which are both exacerbated by the lack of available and accessible voluntary mental health care in Colorado. These circumstances together have an especially devastating impact on OSPD's clients, often resulting in extended incarceration and constitutional rights violations.

One possible legislative change is to close the statutory gap which results in no clear pathway in the civil mental statutes for people with neurocognitive diagnosis (like traumatic brain injury or dementia) who do not otherwise have an intellectual or developmental disability or a serious mental illness leaves them with path for care.

A broader issue that requires resolution and has caught the attention of the public, legislators, and stakeholders involves what happens when a person diagnosed with a serious mental illness or disability while in jail is then released. In some circumstances after a determination that a person cannot be restored to competency, they are released without a plan of care, services, or an inpatient placement despite requiring that level of care. Many are released directly to the streets.

OSPD is committed to working with all stakeholders to bring needed statutory reform coupled with

investment in the mental health care system. OSPD, knowing that the state's budget deficit is real, hopes that reforms will be narrowly tailored to allow for commitment of those relatively few people who pose a danger, but also bring access to voluntary care and additional involuntary care for people who are gravely disabled (but not dangerous) to protect their health and safety.

## **Colorado For All**

The OSPD strives to support and better represent our clients by hiring and retaining diverse staff who bring a range of experiences and backgrounds. In 2018, the OSPD started an intentional approach to improve diversity, equity, and inclusion within the agency. OSPD's annual training conference included sessions on ethics and EDI as required by the Colorado Supreme Court's continuing legal education requirements.

## **Committees, Boards, Task Forces, & Specialty Courts**

The OSPD actively engages in many committees, boards, task forces, work groups, and specialty courts throughout the state to improve fairness and operation of the courts. The workload in these areas continues to increase.

Some committees, boards, and task forces on which members of OSPD serve include:

- The state-level Correctional Treatment Board,
- All the local Correctional Treatment Boards throughout the judicial districts,
- Community Corrections Boards throughout the state,
- Criminal Justice Coordinating Committees in several judicial districts,
- The Sex Offender Management Board,
- The Domestic Violence Offender Management Board,
- Task Force Concerning the Treatment of Persons with Behavioral Health Disorders,
- OCFMH's Consent Decree Steering Committee
- The Statewide Evaluation Subcommittee to the Judicial Mental Health Advisory Committee
- Steering committees related to the implementation of HB24-1355 creating a diversionary wrap around care program in each judicial district;
- The Statewide SB-94 Advisory Committee,
- Local SB-94 Boards,
- The Pre-Adolescent Services Task Force,
- The Jail Standards Advisory Committee,
- E-Discovery Steering Committee,
- Bridges of Colorado Steering Committee,
- Committees of the Colorado Supreme Court including:
  - The Public Access Committee,
  - The Rules of Appellate Procedure Committee,

- The Rules of Criminal Procedure Committee,
- The Advisory Committee on the Rules of Evidence,
- Public Access Committee

In addition, OSPD staff work in specialty treatment courts. This work often entails specialized training and involves attending meetings and staffings in addition to courtroom work. Several types of specialty courts operate in some districts across the state:

- Substance Abuse courts
- DUI courts
- Veterans courts
- Behavioral Health courts
- Competency dockets

## **SMART ACT - Goals, Strategies and Performance Measures**

To achieve our mission of providing high-quality, effective criminal defense representation for each client, the OSPD makes sure our goals, strategies and measures address the needs of our people, our process, and the end product of client representation. We have developed three overarching goals, five strategies and nineteen measures, all focused on improving service to our clients.

While our goals, strategies and measures overlap, they all tie directly to our vision and our mission. As part of our organizational structure planning, these components are continually reviewed and refined.

### **Goals:**

1. Provide high quality attorney services and advocacy in both the trial and appellate courts throughout Colorado for indigent clients.
2. Recruit and retain quality staff to effectively manage the workload in each Public Defender office across the state.
3. Offer excellent staff development, training, technology support, and other resources to adapt to the evolving criminal legal system and ensure our advocacy meets that available to non-indigent individuals, as mandated by our statute.

### **Strategies:**

1. Hire a sufficient number of skilled and committed staff and keep an adequate level of experienced staff to effectively manage the assigned caseload.
2. Track and analyze trends in caseloads and adjust staffing levels.
3. Provide training to address the changing legal climate.
4. Continually evaluate administrative processes and organizational infrastructure needs such as office space, technology, and staffing.
5. Work all cases as efficiently as possible, while keeping a high quality of effective and reasonable representation.

### **Measures:**

#### **Input**

1. Number of new trial court cases.
2. Number of active trial court cases.
3. Percent of trial court attorney staff allocated vs. total required for closed trial court cases.
4. Number of attorney applications received.
5. Percent of total attorney staff allocated versus total required for closed trial court cases and active appellate cases.
6. Annual rates of attrition.
7. Percent of experienced, fully capable staff.
8. Percent compliance with minimum standards for total staffing requirements.
9. Established standard percentages for reasonable staff supervision, management, and development.
10. Number of new appellate cases.
11. Number of active appellate cases (cases awaiting filing of Opening Brief).
12. Percent of appellate attorney staff allocated vs. total required for active appellate cases.

## Output

1. Number of trial court cases closed.
2. Days of training provided.
3. Number of CLE credit hours provided.
4. Ethics training hours provided, focus on Colorado criminal law.
5. Number of administrative processes and organizational infrastructure evaluations performed.
6. Number of appellate cases for which an Opening Brief has been filed.
7. Number of backlogged appellate cases.

## Performance Measures

		FY 21-22	FY 22-23	FY 23-24	FY 24-25	FY 25-26	FY 26-27	FY 27-28
		(actual)	(actual)	(actual)	(actual)	(projected)	(projected)	(projected)
<b>MEASURE 1:</b>	<b>Target</b>	<b>136,144</b>	<b>135,034</b>	<b>139,085</b>	<b>130,267</b>	<b>134,035</b>	<b>138,056</b>	<b>142,198</b>
Number of new trial court cases.	Actual	127,391	125,329	126,473	130,131			
<b>MEASURE 2:</b>	<b>Target</b>	<b>175,221</b>	<b>184,968</b>	<b>190,517</b>	<b>178,660</b>	<b>180,224</b>	<b>185,631</b>	<b>191,200</b>
Number of active trial court cases.	Actual	179,581	174,489	173,456	174,975			
<b>MEASURE 3:</b>	<b>Target</b>	<b>100%</b>	<b>100%</b>	<b>100%</b>	<b>100%</b>	<b>100%</b>	<b>100%</b>	<b>100%</b>
Percent of actual trial court attorney staff vs. total required for closed trial court cases.	Actual	79%	77%	79%	83%			
<b>MEASURE 4:</b>	<b>Target</b>	<b>500</b>	<b>500</b>	<b>500</b>	<b>500</b>	<b>500</b>	<b>500</b>	<b>500</b>
Number of attorney applications received.	Actual	410	507	463	531			
<b>MEASURE 5:</b>	<b>Target</b>	<b>100%</b>	<b>100%</b>	<b>100%</b>	<b>100%</b>	<b>100%</b>	<b>100%</b>	<b>100%</b>
Percent of actual total attorney staff vs. total required for closed trial court cases and appellate cases.	Actual	80%	76%	77%	81%			
<b>MEASURE 6:</b>	<b>Target</b>	<b>12%</b>	<b>12%</b>	<b>12%</b>	<b>12%</b>	<b>12%</b>	<b>12%</b>	<b>12%</b>
Annual rates of attrition:								
Attorneys	Actual	21%	18%	12%	15%			
Investigators	Actual	10%	8%	2%	3%			
Paralegals	Actual		9%	15%	12%			
Administrative Assistants	Actual	30%	19%	15%	13%			
Total All Employees	Actual	19%	16%	12%	12%			

		FY 21-22	FY 22-23	FY 23-24	FY 24-25	FY 25-26	FY 26-27	FY 27-28
		(actual)	(actual)	(actual)	(actual)	(projected)	(projected)	(projected)
<b>MEASURE 7:</b>	<b>Target</b>	<b>70%</b>	<b>70%</b>	<b>70%</b>	<b>70%</b>	<b>70%</b>	<b>70%</b>	<b>70%</b>
Percent of experienced, fully capable staff (journey level or higher):								
Attorneys	Actual	39%	40%	41%	42%			
Investigators	Actual	53%	52%	63%	61%			
Paralegals	Actual		21%	21%	21%			
Administrative Assistants	Actual	36%	30%	32%	34%			
Total All Employees	Actual	43%	39%	42%	42%			
<b>MEASURE 8:</b>	<b>Target</b>	<b>100%</b>	<b>100%</b>	<b>100%</b>	<b>100%</b>	<b>100%</b>	<b>100%</b>	<b>100%</b>
Percent compliance with minimum standards for total staffing requirements.	Actual	80%	77%	81%	82%			
<b>MEASURE 9:</b>	<b>Target</b>	<b>12%</b>	<b>12%</b>	<b>12%</b>	<b>12%</b>	<b>12%</b>	<b>12%</b>	<b>12%</b>
Maintain established standard percentages for reasonable staff supervision, management and development.	Actual	9%	10%	9%	9%			
<b>MEASURE 10:</b>	<b>Target</b>	<b>450</b>	<b>480</b>	<b>495</b>	<b>497</b>	<b>511</b>	<b>527</b>	<b>543</b>
Number of new appellate cases.	Actual	379	430	460	456			
<b>MEASURE 11:</b>	<b>Target</b>	<b>1,627</b>	<b>1,629</b>	<b>1,596</b>	<b>1,669</b>	<b>1,668</b>	<b>1,625</b>	<b>1,604</b>
Number of active appellate cases.	Actual	1,556	1,564	1,568	1,670			
<b>MEASURE 12:</b>	<b>Target</b>	<b>100%</b>	<b>100%</b>	<b>100%</b>	<b>100%</b>	<b>100%</b>	<b>100%</b>	<b>100%</b>
Percent of actual appellate attorney staff vs. total required for appellate cases awaiting filing of initial brief.	Actual	84%	60%	61%	60%			
<b>MEASURE 13:</b>	<b>Target</b>	<b>129,507</b>	<b>134,333</b>	<b>138,362</b>	<b>129,020</b>	<b>132,564</b>	<b>136,541</b>	<b>140,637</b>
Number of trial court cases closed.	Actual	130,421	130,856	125,263	128,704			
<b>MEASURE 14:</b>	<b>Target</b>	<b>132</b>	<b>193</b>	<b>267</b>	<b>314</b>	<b>327</b>	<b>327</b>	<b>327</b>
Days of training provided.	Actual	182	250	291	344			
<b>MEASURE 15:</b>	<b>Target</b>	<b>15</b>	<b>15</b>	<b>15</b>	<b>20</b>	<b>20</b>	<b>20</b>	<b>20</b>
Number of CLE credits provided to all attorneys.	Actual	14	29	36	23			
<b>MEASURE 16:</b>	<b>Target</b>	<b>3</b>	<b>3</b>	<b>3</b>	<b>3</b>	<b>3</b>	<b>3</b>	<b>3</b>
Hours of ethics training provided, focusing on Colorado criminal law.	Actual	2	4	3	3			
<b>MEASURE 17:</b>	<b>Target</b>	<b>15</b>	<b>15</b>	<b>15</b>	<b>15</b>	<b>15</b>	<b>15</b>	<b>15</b>
Number of administrative processes and organizational infrastructure evaluations performed.	Actual	15	15	17	18			
<b>MEASURE 18:</b>	<b>Target</b>	<b>358</b>	<b>343</b>	<b>378</b>	<b>358</b>	<b>355</b>	<b>355</b>	<b>355</b>
Number of appellate cases for which an Opening Brief has been filed.	Actual	310	222	293	354			
<b>MEASURE 19:</b>	<b>Target</b>	<b>271</b>	<b>324</b>	<b>324</b>	<b>589</b>	<b>574</b>	<b>584</b>	<b>605</b>
Number of backlogged appellate cases.	Actual	299	451	603	585			